

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:

IOWA TELECOMMUNICATIONS
SERVICES, INC., d/b/a IOWA TELECOM

DOCKET NO. RPU-02-4

**ORDER GRANTING REQUEST FOR STAY OF ORDER DENYING
REQUEST FOR CONFIDENTIAL TREATMENT**

(Issued August 18, 2003)

On January 15, 2003, Iowa Telecommunications Services, Inc. d/b/a Iowa Telecom (Iowa Telecom), filed a "Request that Material be Withheld from Public Inspection." On January 21, 2003, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a "Resistance" to Iowa Telecom's request . Consumer Advocate argued that Iowa Telecom has relinquished its previous and current claims pursuant to Iowa Code §§ 22.7(3) and (6) because the information failed to meet the definition of a trade secret. Iowa Code § 550.2(4) requires that in order to qualify as a trade secret, the information in question must be the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Consumer Advocate argued that in Iowa Telecom's "Application for Rehearing" filed in this docket on January 15, 2003, Iowa Telecom stated that it had disclosed "all of this information" to the Legislature. Having voluntarily released the information to the Legislature, Consumer Advocate concluded that Iowa Telecom cannot now claim the information should be withheld.

On January 28, 2003, Coon Rapids Municipal Utilities, Grundy Center Municipal Communications Utility, Harlan Municipal Utilities, Reinbeck Municipal

Telecommunications Utility, Manning Municipal Communication and Television System Utility, and The Community Cable Television Agency of O'Brien County, d/b/a The Community Agency and TCA, in regard to the cities of Harley, Paullina, and Primghar only, filed a resistance to the request of Iowa Telecom and concurred with Consumer Advocate's arguments and comments.

On January 31, 2003, Iowa Telecom filed a reply to Consumer Advocate's resistance, arguing that "much" of the information it provided to legislators was general in nature and that all of the specified information should be protected as trade secrets under Iowa Code § 22.7(3). However, Iowa Telecom admitted that specific detailed financial information was made available to a limited number of key legislative personnel.

On August 5, 2003, the Utilities Board (Board) issued an order denying Iowa Telecom's request for confidential treatment, finding that Iowa Telecom had failed to establish that it had taken reasonable steps to protect the secrecy of the information and that it therefore failed to qualify as a "trade secret" pursuant to § 550.2(4). Pursuant to 199 IAC 1.9(6)"d," the Board indicated it would hold the information confidential for 14 days from the date of its order to allow Iowa Telecom an opportunity to seek appropriate judicial relief. After the 14 days expire, the information would be made available for public inspection unless the Board was directed by a Court to keep the information confidential.

On August 15, 2003, Iowa Telecom filed a request for a stay of the release of the information, stating that it intends to file an application for rehearing or reconsideration of the Board's ruling and to provide additional information to the Board which will establish that it has, in fact, taken reasonable steps to protect the secrecy of the

information in question. Iowa Telecom says it will file its application on or before August 25, 2003.

The Board will grant the requested stay. If the requirements are not stayed, Iowa Telecom would be forced to present its additional information to a court, rather than to the Board, which should have the first opportunity to consider the additional information.

IT IS THEREFORE ORDERED:

The request for a stay filed by Iowa Telecommunications Services, Inc., d/b/a Iowa Telecom, on August 15, 2003, is granted. The Board will continue to hold the information that was the subject of its August 5, 2003, order in this docket confidential to allow Iowa Telecom an opportunity to file an application for rehearing, reconsideration, or other appropriate relief. The information will be held confidential until otherwise ordered by the Board. If the Board ultimately denies the request for confidential treatment, the Board will treat the information as confidential for another 14 days from the date of that order to allow Iowa Telecom an opportunity to seek appropriate judicial relief.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 18th day of August, 2003.